IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 29.11.2007

Coram:-

The Hon'ble Mr. Justice R.REGUPATHI

Crl.O.P. No.28820 of 2004
& Crl.M.P. No.8929 of 2004

1. Sivakumar

2. Selvam

3. Pradeep Kumar

4. Senthilkumar ... Petitioners

vs.

State, rep. by
The Inspector of Police,
B-11, Sai Baba Colony Police Station,
Coimbatore. ... Respondent

Petition under Section 482 of the Code of Criminal Procedure to call for the records in STC No.119 of 2004 on the file of the Judicial Magistrate No.7, Coimbatore, and quash the proceedings pending against the petitioner.

For Petitioners : Mr.A.M.Rahmath Ali

For Respondent : Mr.P.Kumaresan,
Addl. Public Prosecutor.

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O R D E R

The petitioners are accused for offences punishable under Section-75(1)(c) of the Tamil Nadu City Police Act, in S.T.C. No.119 of 2004, on the file of Judicial Magistrate No.7, Coimbatore.

2. From the complaint, it is seen that the Sub Inspector of Police, B-7 Police Station, along with constables, was on routine rounds, at which time, he is said to have found the accused in front of a shop run by one of the accused, making noise and also noticed the

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vehicle belonging to the accused parked in the middle of the road. When the complainant questioned their action, it is alleged that the first accused and others orally retaliated him. Since the petitioners indulged in acts amounting to breach of public peace, a case against them came to be filed.

3. Learned counsel for the petitioners submits that even if the allegations and averments made in the complaint and the statement of witnesses are taken to be true, it cannot be concluded that the offence is made out. Pointing out the allegations viz., that, on being questioned by the Sub Inspector of police, the first accused replied that the car would be parked only in front of his shop, as otherwise, where it could be parked; that even in the presence of a police officer, they continued to indulge in mocking among themselves; and that, when the complainant made an attempt to disperse them, they ran away from the scene of occurrence; learned counsel would submit that those alleged acts would not at all constitute the offence under Section 75(1)(c) of the Tamil Nadu City Police Act and sought to quash the proceedings. In support of his argument, he placed reliance on the decisions of this Court reported in *1985 L.W. (Crl.) 336 (Singaravelu v. State)* and *1993 L.W. (Crl.) 53 (Babulal and another v. State)*.

4. Per contra, learned Additional Public Prosecutor submits that, apart from the complainant, four police constables, who accompanied the complainant, and two independent witnesses have been examined and all of them corroborated the statement of the complainant.

5. I have perused the materials available on record and considered the the submissions made by the counsel for the parties. Section 75(1) of the Tamil Nadu City Police Act, 1888, reads as follows:-

> " 75. Penalty for drunkenness or riotous or indecent behaviour in public place.-- (1) Whoever, in any public place, office, station-house or Court, or in any place of public amusement or on board of any passenger boat or vessel, is --
>
> (a) found drunk and incapable of taking care of himself; or
>
> (b) found drunk and under the influence of liquor or drug; or
>
> (c) found behaving in a violent or boisterous or disorderly or riotous or indecent manner or using any threatening, abusive or insulting words which causes or is likely to cause a breach of public peace. "

The complainant is a Sub-Inspector of Police and at the relevant time,

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he was on patrol duty along with four constables. The vehicle was though parked in front of the shop of the first accused, the independent witnesses have stated that the same was obstructing free flow of traffic. A public Servant, who is in charge of maintaining public peace, when questions a person in performance of his lawful duty, must be replied politely, however, in the instant case, from the materials available on record, it appears that the accused mocked at him and had the audacity to question back and quarrel with him; thus, in a way, they obstructed the complainant from performing his lawful duty. The conduct of the petitioners/accused shows that they indulged in acts *likely to cause a breach of public peace.* On perusal of the case laws cited on the side of the petitioners, as referred to above, I am of the view that the same are distinguishable on facts and cannot be applied to the case on hand. Since there are materials to substantiate the commission of the offence alleged, this is not a fit case to quash the proceedings.

6. In this view of the matter, the Criminal Original Petition is dismissed. Connected Miscellaneous Petition stands closed.

Since the case is pending from 2004, learned Magistrate is directed to conclude the trial within a period of three months from to-day.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.Inspector of Police,
B-11, Sai Baba Colony Police Station,Coimbatore.

2.The Judicial Magistrate No.7,Coimbatore.

3.Thro' The Chief Judicial Magistrate,Coimbatore.

4.The Public Prosecutor,High Court, Madras.

+1cc to Mr.H.Rajasekar, Advocate Sr 71181

JI.
KM (CO)
km/12.12.

Crl.O.P. No.28820 of
2004 and connected
Miscel. Petition.

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